



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

August 10, 2001

REPLY TO
ATTENTION OF

Construction-Operations
Regulatory (96-04861-DJP)

Mr. Thomas R. Perez
Kapur & Associates, Inc.
7711 North Port Washington Road
Milwaukee, Wisconsin 53217

Dear Mr. Perez:

We have reviewed information about a project of the City of Burlington to discharge fill materials in 0.085 acre of an isolated wetland to construct Liberty Drive at the Burlington Office and Manufacturing Park. The project site is located in the S 1/2, SW 1/4, Sec. 9, T. 2N, R. 19E, Racine County, Wisconsin, as shown on the attached drawing or map.

This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The area encompassed by this jurisdictional determination is a waterbody/wetland that is approximately 0.4 acre in size.

The subject water body is not a "water of the United States" because it is: (1) not a navigable water, (2) not an interstate water, (3) not part of a tributary system to 1 or 2, (4) not a wetland adjacent to any of the foregoing, and not an impoundment of any of the above. In addition, the interstate commerce nexus to this particular waterbody is insufficient to establish Clean Water Act jurisdiction. This waterbody is therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act.

This jurisdictional determination is valid only for the project and waterbody referenced above. It is based on the Headquarters guidance available to us at this time. Please note that other waterbodies that are subject to regulation by the Corps of Engineers are present within the Burlington Office and Manufacturing Park development site.


PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES OR RACINE COUNTY).



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If you have any questions, contact Dale Pfeiffle in our Waukesha office at (262) 547-0868. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


For Robert J. Whiting
Chief, Regulatory Branch

Enclosure

Copy furnished to:

Shane Heyel, WDNR, Sturtevant, WI
Lois Simon, WDNR, Madison, WI